

**Article 7: Elections, Campaign Finance and Lobbying**

**Division 7: General Provisions for Filling Vacancies in Elective Offices**

*(“General Provisions for Filling Vacancies in Elective Offices”  
added 7-26-1999 by O-18664 N.S.)*

**§27.0701 Purpose and Intent**

The Charter of The City of San Diego gives the City *Council* the authority to fill a vacancy in the offices of the Mayor and City Attorney within thirty business days by appointment; and failing to do so within that time, the City *Council* is required to immediately cause an *election* to be held to fill such vacancy. The Charter provides that if a vacancy occurs in the office of a City *Council* District and there is one year or less remaining in the term, the City *Council* shall appoint an individual to fill the vacant seat. If the vacancy occurs with more than one year remaining in the term, the Charter requires the City *Council* to call a *special election* to fill such vacancy. The purpose and intent of this division is to establish uniform provisions for filling a vacancy in any *elective office*.

*(Amended 9-10-2001 by O-18979 N.S.)*

**§27.0702 Reason for Vacancy**

A vacancy may occur as a result of death, resignation, un-excused absences, or a recall *election*.

*(“Reason for Vacancy” added 7-26-1999 by O-18664 N.S.)*

**§27.0703 Date of Vacancy**

(a) If a vacancy occurs by reason of resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City *Clerk*.

(b) If a vacancy occurs by reason of death or un-excused absences, the date of the vacancy will be the date of adoption of the City *Council’s* Declaration of Vacancy.

*(“Date of Vacancy” added 7-26-1999 by O-18664 N.S.)*

**§27.0704 Council to Adopt Declaration of Vacancy**

As soon as it is known that a vacancy exists in any elective office by reason of death or un-excused absences, the City Council shall adopt a Declaration of Vacancy at its next regularly scheduled meeting, or at a special meeting called for that purpose. The Declaration of Vacancy shall include the name of the elective office that is vacant and the reason for the vacancy.

(“*Council to Adopt Declaration of Vacancy*” added 7-26-1999 by O-18664 N.S.)

#### **§27.0705 Alternative of Appointment or Election**

- (a) As soon as it is known that there will be a vacancy in the office of the Mayor or City Attorney of The City of San Diego, for any reason other than a successful recall *election*, the presiding officer of the City *Council* shall, at the next regularly scheduled City *Council* meeting, or at a special meeting called for that purpose, consider the question of whether the vacancy shall be filled by appointment or *special election*.
- (b) As soon as it is known that there will be a vacancy in the office of a Councilmember of The City of San Diego, for any reason other than a successful recall *election*, the decision to fill the vacancy by appointment or *special election* shall be determined by the length of time remaining in the term of office, pursuant to City Charter section 12.

(“*Alternative of Appointment or Election*” added 7-26-1999 by O-18664 N.S.)

#### **§27.0706 Letter of Resignation May be Withdrawn**

A letter of resignation containing an effective date may be withdrawn in writing if that request is filed with the City *Clerk* as follows:

- (a) In the event the letter of resignation relates to the office of Mayor or City Attorney, no later than the business day before the City *Council* meets in accordance with Section 27.0705(a); or
- (b) In the event the letter of resignation relates to the office of a City Councilmember and an *election* is required by the City Charter, no later than the business day before the City *Council* calls a *special election* pursuant to Section 27.0902 of this article; or
- (c) In the event the letter of resignation relates to the office of a City Councilmember and the vacancy will be filled by appointment in accordance

with the City Charter, no later than the deadline established by the City *Clerk* for filing appointment application forms pursuant to Section 27.0802.  
(“*Letter of Resignation May be Withdrawn*” added 7-26-1999 by O-18664 N.S.)

**§27.0707 Procedures to Fill Vacancy**

- (a) When a vacancy is to be filled by appointment, the City *Council* shall fill such vacancy in accordance with the provisions set forth in Division 8 of this article.
- (b) When a vacancy is to be filled by *special election*, the City *Council* shall fill such vacancy in accordance with the provisions set forth in Division 9 of this article.
- (c) When a vacancy occurs by reason of a successful recall *election*, the City *Council* shall fill such vacancy in accordance with the provisions set forth in the recall provisions of this article.

(“*Procedures to Fill Vacancy*” added 7-26-1999 by O-18664 N.S.)

**§27.0708 Effect of Redistricting on Filling a Vacancy in Council Office**

If a vacancy occurs for any reason, and if redistricting has occurred between the date of the *election* of the officeholder and the date of the vacancy, the redistricting will have no effect on the boundaries used to determine who is eligible to fill the vacancy, either by appointment or *special election*. The boundaries used to fill the vacancy will be the same as those used in the original *election*, and all the following requirements shall be met:

- (a) A *candidate* for appointment or *election* will be a resident and *voter* from within the district boundaries as they existed prior to redistricting.
- (b) In order to be counted as valid, nominating signatures must come from *voters* registered within the district boundaries as they existed prior to redistricting.
- (c) A *special election* held to fill a vacancy will be held within the district boundaries as they existed prior to redistricting.

(“*Effect of Redistricting on Filling a Vacancy in Council Office*” added 7-26-1999 by O-18664 N.S.)

**§27.0709 Term of Office**

- (a) The term of office for an individual elected to fill a vacancy in the office of a *City Council* district pursuant to Division 9 of this article shall commence at the time the *City Council* adopts the resolution declaring the results of such *election* to the vacant office, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the next *District* or *City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.
- (b) The term of office for an individual elected to fill a vacancy in the office of the Mayor or City Attorney pursuant to Division 9 of this article shall commence at the time the *City Council* adopts the resolution declaring the results of such election to the vacant office, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the next *City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.
- (c) The term of office for an individual appointed to fill a vacancy in the office of a *City Council* district pursuant to Division 8 of this article shall commence at the time the *City Council* adopts the resolution appointing that officer to fill the vacancy, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the *District* or *City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.
- (d) The term of office for an individual appointed to fill a vacancy in the office of Mayor or City Attorney pursuant to Division 8 of this article shall commence at the time the *City Council* adopts the resolution appointing that officer to fill the vacancy. Any individual appointed to fill such vacancy, shall hold office only until the next regular municipal election, at which time an individual shall be elected to serve for the remainder of such unexpired term. The appointed officeholders's term of office shall expire at the time the *City Council* adopts the resolution declaring the results of the election and declares that a candidate has been elected to that office.
- (e) The *City Clerk* or other qualified individual shall administer the oath of office to the elected or appointed officer at the time the term of office begins.

(Amended 9-10-2001 by O-18979 N.S.)